IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

Tr.P(C).No. 5 of 2007()

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OPHMA.857/2006 of FAMILY COURT, KOTTAYAM

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PETITIONER/RESPONDENT

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JAYACHITRA R.G.,
D/O.GOPALAKRISHNAN ACHARY,
ASHABHAVAN, MALAYINKUNNATHIL, KULANADA P.O.,
PATHANAMTHITTA.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS: PETITIONER

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PRASAD A.N.,
S/O.NARAYANAN, AMMARAKIZHAKATHIL(KARATTAYIL)HOUSE,
NATTASSERY KARA, S.H.MOUNT P.O., KOTTAYAM-6.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR
SRI.R.V.SREEJITH

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

TR.P.(C)5/07

ORDER ON I.A.41/07 IN TR.P.(C)5/07

DISMISSED

31.1.07 SD/-M.SASIDHARAN NAMBIAR, JUDGE.

/TRUE COPY/

PA TO JUDGE.

**M.SASIDHARAN NAMBIAR,J.**

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**Tr.P.(C)NO.5 OF 2007**

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**DATED THIS THE 31st DAY OF JANUARY, 2007**

**ORDER**

Petitioner is wife and respondent the husband. Petitioner filed M.C.349/06 for maintenance before Family Court, Thiruvalla. Respondent filed O.P.(HMA) 857/06 before Family Court, Kottayam for restitution of conjugal rights. According to petitioner it is a counter blast to the claim for maintenance. This petition is filed to transfer the latter case to Family Court, Thiruvalla contending that petitioner is residing at Kulanada in Pathanamthitta District and she has no income and nobody else is there to accompany her to travel to Ettumanoor and in such circumstances, the case is to be transferred to Thiruvalla.

2. Respondent opposed the application contending that he is having 45% of physical disability and is not in a position to travel to Thiruvalla and he intends to file an application for transfer of the case from Thiruvalla to Kottayam and in such circumstances petition is to be dismissed.

3. Learned Counsel appearing for petitioner and respondent were heard.

4. When wife filed the petition for maintenance before Family

Court, Thiruvalla, husband filed a petition for restitution of conjugal rights before Family Court, Kottayam. As the maintenance case is pending at Thiruvalla, husband has necessarily to travel to Thiruvalla and therefore on the ground of he is handicapped, the prayer of the wife to get the case transferred cannot be rejected. The wife is residing within the jurisdiction of Family Court, Thiruvalla.

5. Considering the case of petitioner that she has no income and she cannot travel to Kottayam alone and contest the case and the maintenance case is pending at Thiruvalla, this petition is allowed. O.P.(HMA) 857/06 on the file of Family Court, Kottayam is withdrawn and transferred to Family Court, Thiruvalla for disposal in accordance with law.

Respondent is at liberty to apply to Family Court, Thiruvalla for exemption from personal appearance. Family Court may not insist for his personal appearance, unless it is absolutely necessary.

**M.SASIDHARAN NAMBIAR,JUDGE**

Acd